

REMARKS

Applicant respectfully requests reconsideration of this application in view of the foregoing amendments and following remarks.

A. Status of the Claims and Explanation of Amendments

Claims 2-8, 10-13, 15 and 17 were pending. Claims 2, 15 and 17 are amended.

Claim 2 is amended to recite, *inter alia*, “plural rear surfaces opposite to the reflecting surface, wherein one of the plural rear surfaces is defined by a cut-out portion....”

Claims 15 and 17 are amended similar to claim 2. Support for these amendments is found throughout the specification and drawings as originally filed, for example Figure 1A and its associated text. No new matter is added by these amendments. Entry is respectfully requested.

Claims 2-8, 10-13, 15 and 17 were rejected under 35 U.S.C. § 102(e) as being anticipated by Miyajima, U.S. Patent Application Publication No. 2005-0073663 (“Miyajima”). [12/7/06 Office Action, pp. 2-5.] Claim 6 was rejected under 35 U.S.C. § 103(a) as being obvious over Miyajima in view of Loopstra, U.S. Patent Application Publication No. 2001-0013925 (“Loopstra”). [12/7/07 Office Action, pp. 5-6.]

B. Claims 2-5, 7-8, 10-13, 15 and 17 are Patentably Distinct from Miyajima

The rejection of claims 2-8, 10-13, 15 and 17 is respectfully traversed. As explained more fully below, the requirements for such a rejection are not met since Miyajima does not teach, suggest or disclose “a base having...plural rear surfaces opposite to the reflecting surface, wherein one of the plural rear surfaces is defined by a cut-out portion” as recited in independent claim 2.

Applicant’s amended claim 2 recites:

"2. An optical element comprising:

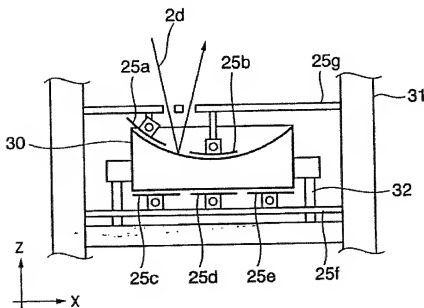
a base having a reflecting surface to be illuminated by light, and plural rear surfaces opposite to the reflecting surface, wherein one of the plural rear surfaces is defined by a cut-out portion; and

a cooling mechanism, accommodated by the cut-out portion, for cooling said base through radiation in a non-contact manner."

Miyajima is directed to reflection mirror apparatus, an exposure apparatus, and a device manufacturing method. Referring to Figure 3B, which is copied below for reference, Miyajima discloses:

"the mirror 30 is supported in the mirror barrel 31 via a mirror support member 32. Further, the radiation plates 25a and 25b are supported by a radiation plate support member 25g, and the radiation plates 25c to 25e are supported by a radiation plate support member 25f, in the mirror barrel 31. At this time, a passage area for the exposure light 2d incoming and outgoing to/from the reflection surface of the mirror 30 is ensured between the radiation plates 25a and 25b." [Miyajima ¶ 0041.]

FIG. 3B



Applicant's review of Miyajima finds no disclosure of plural rear surfaces. As shown in Figure 3B, the rear surface of the mirror (30) (i.e., the portion above the radiation plates 25(c)-(e)) is a single, planar surface. The text of Miyajami does not further describe the structure of the rear surface, and never identifies the rear surface with a reference numeral.

Thus, claim 2 is patentably distinct from Miyajima because Miyajima fails to teach, suggest or disclose "a base having...plural rear surfaces opposite to the reflecting surface, wherein one of the plural rear surfaces is defined by a cut-out portion" as recited in Applicant's claim 2.

Accordingly, claim 2 is respectfully submitted to be in condition for allowance for at least the reasons set forth above. For at least similar reasons, independent claims 15 and 17, and dependent claims 3-8, and 10-13 are patentably distinct from Miyajima, and are submitted to be in condition for allowance. Applicant respectfully requests reconsideration and withdrawal of the rejections of claims 2-8, 10-13, 15 and 17.

C. Claim 6 is Patentably Distinct from Miyajima and Loopstra

There is a further bases for the allowance of dependent claim 6. Miyajami is asserted to be prior art as to the present application pursuant to 35 U.S.C. § 102(e). Without commenting on that assertion, Applicants note that this reference is assigned to Canon Kabushiki Kaisha ("Canon"), the assignee of the present application. Canon's ownership of each of these applications may be seen in the assignment records of the U.S. Patent & Trademark Office:

<u>Application</u>	<u>Reel</u>	<u>Frame</u>	<u>Date of Recordation</u>
Present Application	014998	0393	02/11/2004
Miyajami	014429	0981	08/26/2003

Thus, the present application and Miyajami were, at the time the invention of the present application was made, owned by Canon. Section 103(c)(1) of the Patent Statute forbids the use of such a reference in an obviousness rejection against a commonly owned patent application:

Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person. (35 U.S.C. §103(c)(1)).

Accordingly, Applicants request withdrawal of the Section 103 rejection of claim 6 on this further basis.

In the interest of expediting prosecution of this patent application, Applicant has chosen to distinguish the cited documents from the pending claims as set forth above. These statements should not be regarded in any way as admissions that the cited documents are, in fact, prior art. Likewise, Applicant has chosen not to swear behind Miyajima or to otherwise submit evidence to traverse the rejection at this time. Applicant, however, reserves the right, as provided by 37 C.F.R. §§ 1.131 and 1.132, to do so in the future as appropriate. Finally, Applicant has not specifically addressed the rejections of the dependent claims. Applicant respectfully submits that the independent claims from which they depend are in condition for allowance as set forth above. Accordingly, the dependent claims are also in condition for allowance. However, Applicant reserves the right to address such rejections of the dependent claims in the future as appropriate.

CONCLUSION


Applicant respectfully submits that all claims as presented herein are in condition for allowance. An early and favorable examination on the merits is respectfully requested. In the event that a telephone conference would facilitate prosecution, the Examiner is invited to contact the undersigned at the number provided.

Applicant believes no fees are required for this Amendment. If, however, an extension of time is necessary to render this filing timely, such is hereby petitioned and the Commissioner is hereby authorized to charge any additional fees which may be required for this paper, or credit any overpayment, to Deposit Account No. 13-4500, Order No. 1232-5283.

Respectfully submitted,
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